

### § 502.136

making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.135(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission, on its own motion, reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No ruling of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs. [Rule 135.]

### § 502.136 Enforcement.

In the event of failure to comply with any subpoena or order issued in connection therewith, the Commission may seek enforcement as provided in § 502.210(b). [Rule 136.]

## Subpart J—Hearings; Presiding Officers; Evidence

### § 502.141 Hearings not required by statute.

The Commission may call informal public hearings, not required by statute, to be conducted under the rules in this part where applicable, for the purpose of rulemaking or to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties, and may require the attendance of witnesses and the production of evidence to the extent permitted by law. [Rule 141.]

### § 502.142 Hearings required by statute.

In complaint and answer cases, investigations on the Commission's own motion, and in other rulemaking and adjudication proceedings in which a hearing is required by statute, formal hearings shall be conducted pursuant to 5 U.S.C. 554. [Rule 142.]

### § 502.143 Notice of nature of hearing, jurisdiction and issues.

Persons entitled to notice of hearings, except those notified by complaint served under § 502.113, will be duly and timely informed of (a) the nature of the proceeding, (b) the legal authority and jurisdiction under which the proceeding is conducted, and (c) the

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terms, substance, and issues involved, or the matters of fact and law asserted, as the case may be. Such notice shall be published in the FEDERAL REGISTER unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. [Rule 143.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 64 FR 7810, Feb. 17, 1999]

### § 502.144 Notice of time and place of hearing; postponement of hearing.

(a) Notice of hearing will designate the time and place thereof, the person or persons who will preside, and the kind of decision to be issued. The date or place of a hearing for which notice has been issued may be changed when warranted. Reasonable notice will be given to the parties or their representatives of the time and place of the change thereof, due regard being had for the public interest and the convenience and necessity of the parties or their representatives. Notice may be served by mail or telegraph. Notice may be served by mail, facsimile transmission, or electronic mail.

(b) Motions for postponement of any hearing date shall be filed in accordance with § 502.104. [Rule 144.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7810, Feb. 17, 1999; 64 FR 23551, May 3, 1999]

### § 502.145 Presiding officer.

(a) *Definition.* *Presiding officer* includes, where applicable, a member of the Commission or an administrative law judge. (See § 502.25.)

(b) *Designation of administrative law judge.* An administrative law judge will be designated by the Chief of the Commission's Office of Administrative Law Judges to preside at hearings required by statute, in rotation so far as practicable, unless the Commission or one or more members thereof shall preside, and will also preside at hearings not required by statute when designated to do so by the Commission.

(c) *Unavailability.* If the presiding officer assigned to a proceeding becomes unavailable to the Commission, the Commission, or Chief Judge (if such presiding officer was an administrative law judge), shall designate a qualified officer to take his or her place. Any

motion predicated upon the substitution of a new presiding officer for one originally designated shall be made within ten (10) days after notice of such substitution. [Rule 145.]

**§ 502.146 Commencement of functions of Office of Administrative Law Judges.**

In proceedings handled by the Office of Administrative Law Judges, its functions shall attach:

(a) Upon the service by the Commission of a complaint filed pursuant to § 502.62, or § 502.182, or upon referral under subpart T of this part; or

(b) Upon reference by the Commission of a petition for a declaratory order pursuant to § 502.68; or

(c) Upon forwarding for assignment by the Office of the Secretary of a special docket application pursuant to § 502.271; or

(d) Upon the initiation of a proceeding and ordering of hearing before an administrative law judge. [Rule 146.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7810, Feb. 17, 1999]

**§ 502.147 Functions and powers.**

(a) *Of presiding officer.* The officer designated to hear a case shall have authority to arrange and give notice of hearing; sign and issue subpoenas authorized by law; take or cause depositions to be taken; rule upon proposed amendments or supplements to pleadings; delineate the scope of a proceeding instituted by order of the Commission by amending, modifying, clarifying or interpreting said order; inform the parties as to the availability of one or more alternative means of dispute resolution, encourage use of such methods, and require consideration of their use at an early stage of the proceeding; hold conferences for the settlement or simplification of the issues by consent of the parties or by the use of alternative means of dispute resolution; transmit the request of parties for the appointment of a mediator or settlement judge, as provided by § 502.91 of this part; require the attendance at any such conference pursuant to 5 U.S.C. 556(c)(8), of at least one representative of each party who has authority to negotiate concerning resolu-

tion of issues in controversy; regulate the course of the hearing; prescribe the order in which evidence shall be presented; dispose of procedural requests or similar matters; hear and rule upon motions; administer oaths and affirmations; examine witnesses; direct witnesses to testify or produce evidence available to them which will aid in the determination of any question of fact in issue; rule upon offers of proof and receive relevant material, reliable and probative evidence; act upon petitions to intervene; permit submission of facts, arguments, offers of settlement, and proposals of adjustment; and, if the parties so request, issue formal opinions providing tentative evaluations of the evidence submitted; hear oral argument at the close of testimony; fix the time for filing briefs, motions, and other documents to be filed in connection with hearings and the administrative law judge's decision thereon, except as otherwise provided by the rules in this part; act upon petitions for enlargement of time to file such documents, including answers to formal complaints; and dispose of any other matter that normally and properly arises in the course of proceedings. The presiding officer or the Commission may exclude any person from a hearing for disrespectful, disorderly, or contumacious language or conduct.

(b) All of the functions delegated in subparts A to Q and subpart T of this part, inclusive, to the Chief Judge, presiding officer, or administrative law judge include the functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter, pursuant to the provisions of section 105 of Reorganization Plan No. 7 of 1961. [Rule 147.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 58 FR 38650, July 19, 1993; 64 FR 7810, Feb. 17, 1999]

**§ 502.148 Consolidation of proceedings.**

The Commission or the Chief Judge (or designee) may order two or more proceedings which involve substantially the same issues consolidated and heard together. [Rule 148.]